Republic of the Philippines
SUPREME COURT
Manila

EN BANC

G.R. No. 97412 July 12, 1994

EASTERN SHIPPING LINES, INC., petitioner,
vs.
HON. COURT OF APPEALS AND MERCANTILE INSURANCE COMPANY, INC., respondents.

Alojada & Garcia and Jimenea, Dala & Zaragoza for petitoner.

Zapa Law Office for private respondent.

VITUG, *J.:*

The issues, *albeit* not completely novel, are: (a) whether or not a claim for damage sustained on a shipment of goods can be a solidary, or joint and several, liability of the common carrier, the arrastre operator and the customs broker; (b) whether the payment of legal interest on an award for loss or damage is to be computed from the time the complaint is filed or from the date the decision appealed from is rendered; and (c) whether the applicable rate of interest, referred to above, is twelve percent (12%) or six percent (6%).

The findings of the court *a quo*, adopted by the Court of Appeals, on the antecedent and undisputed facts that have led to the controversy are hereunder reproduced:

> This is an action against defendants shipping company, arrastre operator and broker-forwarder for damages sustained by a shipment while in defendants' custody, filed by the insurer-subrogee who paid the consignee the value of such losses/damages.
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> On December 4, 1981, two fiber drums of riboflavin were shipped from Yokohama, Japan for delivery vessel "SS EASTERN COMET" owned by defendant Eastern Shipping Lines under Bill of Lading No. YMA-8 (Exh. B). The shipment was insured under plaintiff's Marine Insurance Policy No. 81/01177 for P36,382,466.38.
>
> Upon arrival of the shipment in Manila on December 12, 1981, it was discharged unto the custody of defendant Metro Port Service, Inc. The latter excepted to one drum, said to be in bad order, which damage was unknown to plaintiff.
>
> On January 7, 1982 defendant Allied Brokerage Corporation received the shipment from defendant Metro Port Service, Inc., one drum opened and without seal (per "Request for Bad Order Survey." Exh. D).
>
> On January 8 and 14, 1982, defendant Allied Brokerage Corporation made deliveries of the shipment to the consignee's warehouse. The latter excepted to one drum which contained spillages, while the rest of the contents was adulterated/fake (per "Bad Order Waybill" No. 10649, Exh. E).
>
> Plaintiff contended that due to the losses/damage sustained by said drum, the consignee suffered losses totaling P19,032.95, due to the fault and negligence of defendants. Claims were presented against defendants who failed and refused to pay the same (Exhs. H, I, J, K, L).
>
> As a consequence of the losses sustained, plaintiff was compelled to pay the consignee P19,032.95 under the aforestated marine insurance policy, so that it became subrogated to all the rights of action of said consignee against defendants (per "Form of Subrogation", "Release" and Philbanking check, Exhs. M, N, and O). (pp. 85-86, *Rollo*.)

There were, to be sure, other factual issues that confronted both courts. Here, the appellate court said:

> Defendants filed their respective answers, traversing the material allegations of the complaint contending that: As for defendant Eastern Shipping it alleged that the shipment was discharged in good order from the vessel unto the custody of Metro Port Service so that any damage/losses incurred after the shipment was incurred after the shipment was turned over to the latter, is no longer its liability (p. 17, Record); Metroport averred that although subject shipment was discharged unto its custody, portion of the same was already in bad order (p. 11, Record); Allied Brokerage alleged that plaintiff has no cause of action against it, not having negligent or at fault for the shipment was already in damage and bad order condition when received by it, but nonetheless, it still exercised extra ordinary care and diligence in the handling/delivery of the cargo to consignee in the same condition shipment was received by it.
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> From the evidence the court found the following:
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> The issues are:
>
>> 1. Whether or not the shipment sustained losses/damages;
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>> 2. Whether or not these losses/damages were sustained while in the custody of defendants (in whose respective custody, if determinable);
>>
>> 3. Whether or not defendant(s) should be held liable for the losses/damages (see plaintiff's pre-Trial Brief, Records, p. 34; Allied's pre-Trial Brief, adopting plaintiff's Records, p. 38).
>>
>> As to the first issue, there can be no doubt that the shipment sustained losses/damages. The two drums were shipped in good order and condition, as clearly shown by the Bill of Lading and Commercial Invoice which do not indicate any damages drum that was shipped (Exhs. B and C). But when on December 12, 1981 the shipment was delivered to defendant Metro Port Service, Inc., it excepted to one drum in bad order.
>>
>> Correspondingly, *as to the second issue*, it follows that the losses/damages were sustained while in the respective and/or successive custody and possession of defendants carrier (Eastern), arrastre operator (Metro Port) and broker (Allied Brokerage). This becomes evident when the Marine Cargo Survey Report (Exh. G), with its "Additional Survey Notes", are considered. In the latter notes, it is stated that when the shipment was "landed on vessel" to dock of Pier # 15, South Harbor, Manila on December 12, 1981, it was observed that "*one (1) fiber drum (was) in damaged condition, covered by the vessel's Agent's Bad Order Tally Sheet No. 86427*." The report further states that when defendant Allied Brokerage withdrew the shipment from defendant arrastre operator's custody on January 7, 1982, one drum was found opened without seal, cello bag partly torn but contents intact. Net unrecovered spillages was 15 kgs. The report went on to state that when the drums reached the consignee, one drum was found with adulterated/faked contents. It is obvious, therefore, that these losses/damages occurred before the shipment reached the consignee while under the successive custodies of defendants. Under Art. 1737 of the New Civil Code, the common carrier's duty to observe extraordinary diligence in the vigilance of goods remains in full force and effect even if the goods are temporarily unloaded and stored in transit in the warehouse of the carrier at the place of destination, until the consignee has been advised and has had reasonable opportunity to remove or dispose of the goods (Art. 1738, NCC). Defendant Eastern Shipping's own exhibit, the "Turn-Over Survey of Bad Order Cargoes" (Exhs. 3-Eastern) states that on December 12, 1981 one drum was found "open".
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> and thus held:
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>> WHEREFORE, PREMISES CONSIDERED, judgment is hereby rendered:
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> A. Ordering defendants to pay plaintiff, jointly and severally:
>
>> 1. The amount of P19,032.95, with the present legal interest of 12% *per annum* from October 1, 1982, the date of filing of this complaints, until fully paid (the liability of defendant Eastern Shipping, Inc. shall not exceed US$500 per case or the CIF value of the loss, whichever is lesser, while the liability of defendant Metro Port Service, Inc. shall be to the extent of the actual invoice value of each package, crate box or container in no case to exceed P5,000.00 each, pursuant to Section 6.01 of the Management Contract);

2. P3,000.00 as attorney's fees, and

3. Costs.

B. Dismissing the counterclaims and crossclaim of defendant/cross-claimant Allied Brokerage Corporation.

SO ORDERED. (p. 207, Record).

Dissatisfied, defendant's recourse to US.

The appeal is devoid of merit.

After a careful scrutiny of the evidence on record. We find that the conclusion drawn therefrom is correct. As there is sufficient evidence that the shipment sustained damage while in the successive possession of appellants, and therefore they are liable to the appellee, as subrogee for the amount it paid to the consignee. (pp. 87-89, *Rollo*.)

The Court of Appeals thus affirmed *in toto* the judgment of the court *a quo*.

In this petition, Eastern Shipping Lines, Inc., the common carrier, attributes error and grave abuse of discretion on the part of the appellate court when —

I. IT HELD PETITIONER CARRIER JOINTLY AND SEVERALLY LIABLE WITH THE ARRASTRE OPERATOR AND CUSTOMS BROKER FOR THE CLAIM OF PRIVATE RESPONDENT AS GRANTED IN THE QUESTIONED DECISION;

II. IT HELD THAT THE GRANT OF INTEREST ON THE CLAIM OF PRIVATE RESPONDENT SHOULD COMMENCE FROM THE DATE OF THE FILING OF THE COMPLAINT AT THE RATE OF TWELVE PERCENT *PER ANNUM* INSTEAD OF FROM THE DATE OF THE DECISION OF THE TRIAL COURT AND ONLY AT THE RATE OF SIX PERCENT *PER ANNUM*, PRIVATE RESPONDENT'S CLAIM BEING INDISPUTABLY UNLIQUIDATED.

The petition is, in part, granted.

In this decision, we have begun by saying that the questions raised by petitioner carrier are not all that novel. Indeed, we do have a fairly good number of previous decisions this Court can merely tack to.

The common carrier's duty to observe the requisite diligence in the shipment of goods lasts from the time the articles are surrendered to or unconditionally placed in the possession of, and received by, the carrier for transportation until delivered to, or until the lapse of a reasonable time for their acceptance by, the person entitled to receive them (Arts. 1736-1738, Civil Code; Ganzon vs. Court of Appeals, 161 SCRA 646; Kui Bai vs. Dollar Steamship Lines, 52 Phil. 863). When the goods shipped either are lost or arrive in damaged condition, a presumption arises against the carrier of its failure to observe that diligence, and there need not be an express finding of negligence to hold it liable (Art. 1735, Civil Code; Philippine National Railways vs. Court of Appeals, 139 SCRA 87; Metro Port Service vs. Court of Appeals, 131 SCRA 365). There are, of course, exceptional cases when such presumption of fault is not observed but these cases, enumerated in Article 1734 [1] of the Civil Code, are exclusive, not one of which can be applied to this case.

The question of charging both the carrier and the arrastre operator with the obligation of properly delivering the goods to the consignee has, too, been passed upon by the Court. In *Fireman's Fund Insurance vs. Metro Port Services* (182 SCRA 455), we have explained, in holding the carrier and the arrastre operator liable in *solidum,* thus:

The legal relationship between the consignee and the arrastre operator is akin to that of a depositor and warehouseman (Lua Kian v. Manila Railroad Co., 19 SCRA 5 [1967]. The relationship between the consignee and the common carrier is similar to that of the consignee and the arrastre operator (Northern Motors, Inc. v. Prince Line, et al., 107 Phil. 253 [1960]). Since it is the duty of the ARRASTRE to take good care of the goods that are in its custody and to deliver them in good condition to the consignee, such responsibility also devolves upon the CARRIER. Both the ARRASTRE and the CARRIER are therefore charged with the obligation to deliver the goods in good condition to the consignee.

We do not, of course, imply by the above pronouncement that the arrastre operator and the customs broker are themselves always and necessarily liable solidarily with the carrier, or *vice-versa,* nor that attendant facts in a given case may not vary the rule. The instant petition has been brought solely by Eastern Shipping Lines, which, being the carrier and not having been able to rebut the presumption of fault, is, in any event, to be held liable in

this particular case. A factual finding of both the court *a quo* and the appellate court, we take note, is that "there is sufficient evidence that the shipment sustained damage while in the successive possession of appellants" (the herein petitioner among them). Accordingly, the liability imposed on Eastern Shipping Lines, Inc., the sole petitioner in this case, is inevitable regardless of whether there are others solidarily liable with it.

It is over the issue of legal interest adjudged by the appellate court that deserves more than just a passing remark.

Let us first see a chronological recitation of the major rulings of this Court:

The early case of *Malayan Insurance Co., Inc., vs. Manila Port Service,* [2] decided [3] on 15 May 1969, involved a suit for *recovery of money arising out of short deliveries and pilferage of goods*. In this case, appellee Malayan Insurance (the plaintiff in the lower court) averred in its complaint that the total amount of its claim for the value of the undelivered goods amounted to P3,947.20. This demand, however, was neither established in its totality nor definitely ascertained. In the stipulation of facts later entered into by the parties, in lieu of proof, the amount of P1,447.51 was agreed upon. The trial court rendered judgment ordering the appellants (defendants) Manila Port Service and Manila Railroad Company to pay appellee Malayan Insurance the sum of P1,447.51 with *legal interest thereon from the date the complaint was filed on 28 December 1962 until full payment thereof.* The appellants then assailed, *inter alia*, the award of legal interest. In sustaining the appellants, this Court ruled:

> Interest upon an obligation which calls for the payment of money, absent a stipulation, is the legal rate. Such interest normally is allowable from the date of demand, judicial or extrajudicial. The trial court opted for judicial demand as the starting point.
>
> But then upon the provisions of Article 2213 of the Civil Code, interest "cannot be recovered upon unliquidated claims or damages, except when the demand can be established with reasonable certainty." And as was held by this Court in *Rivera vs. Perez,* [4] L-6998, February 29, 1956, *if the suit were for damages, "unliquidated and not known until definitely ascertained, assessed and determined by the courts after proof (Montilla c. Corporacion de P.P. Agustinos, 25 Phil. 447; Lichauco v. Guzman, 38 Phil. 302)," then, interest "should be from the date of the decision."* (Emphasis supplied)

The case of *Reformina vs. Tomol,* [5] rendered on 11 October 1985, was for "*Recovery of Damages for Injury to Person and Loss of Property*." After trial, the lower court decreed:

> WHEREFORE, judgment is hereby rendered in favor of the plaintiffs and third party defendants and against the defendants and third party plaintiffs as follows:
>
> Ordering defendants and third party plaintiffs Shell and Michael, Incorporated to pay jointly and severally the following persons:
>
> xxx xxx xxx
>
> (g) Plaintiffs Pacita F. Reformina and Francisco Reformina the sum of P131,084.00 which is the value of the boat F B Pacita III together with its accessories, fishing gear and equipment minus P80,000.00 which is the value of the insurance recovered and the amount of P10,000.00 a month as the estimated monthly loss suffered by them as a result of the fire of May 6, 1969 up to the time they are actually paid or already *the total sum of P370,000.00 as of June 4, 1972 with legal interest from the filing of the complaint until paid* and to pay attorney's fees of P5,000.00 with costs against defendants and third party plaintiffs. (Emphasis supplied.)

On appeal to the Court of Appeals, the latter modified the amount of damages awarded but sustained the trial court in adjudging *legal interest from the filing of the complaint until fully paid*. When the appellate court's decision became final, the case was remanded to the lower court for execution, and this was when the trial court issued its assailed resolution which applied the 6% interest *per annum* prescribed in Article 2209 of the Civil Code. In their petition for review on *certiorari*, the petitioners contended that Central Bank Circular No. 416, providing thus —

> By virtue of the authority granted to it under Section 1 of Act 2655, as amended, Monetary Board in its Resolution No. 1622 dated July 29, 1974, has prescribed that the rate of interest for the loan, or forbearance of any money, goods, or credits and the rate allowed in judgments, in the absence of express contract as to such rate of interest, shall be twelve (12%) percent *per annum*. This Circular shall take effect immediately. (Emphasis found in the text) —

should have, instead, been applied. This Court [6] ruled:

The judgments spoken of and referred to are judgments in litigations involving loans or forbearance of any money, goods or credits. Any other kind of monetary judgment which has nothing to do with, nor involving loans or forbearance of any money, goods or credits does not fall within the coverage of the said law for it is not within the ambit of the authority granted to the Central Bank.

xxx xxx xxx

Coming to the case at bar, the decision herein sought to be executed is one rendered in an Action for Damages for injury to persons and loss of property and does not involve any loan, much less forbearances of any money, goods or credits. As correctly argued by the private respondents, the law applicable to the said case is Article 2209 of the New Civil Code which reads —

> Art. 2209. — If the obligation consists in the payment of a sum of money, and the debtor incurs in delay, the indemnity for damages, there being no stipulation to the contrary, shall be the payment of interest agreed upon, and in the absence of stipulation, the legal interest which is six percent *per annum*.

The above rule was reiterated in *Philippine Rabbit Bus Lines, Inc., v. Cruz,* [7] promulgated on 28 July 1986. The case was for damages occasioned by an injury to person and loss of property. The trial court awarded private respondent Pedro Manabat actual and compensatory damages in the amount of P72,500.00 with *legal interest thereon from the filing of the complaint until fully paid*. Relying on the *Reformina v. Tomol* case, this Court [8] *modified the interest award from 12% to 6% interest per annum but sustained the time computation thereof, i.e., from the filing of the complaint until fully paid*.

In *Nakpil and Sons vs. Court of Appeals,* [9] the trial court, in an action for the recovery of damages arising from the collapse of a building, ordered,
inter alia, the "defendant United Construction Co., Inc. (one of the petitioners)
. . . to pay the plaintiff, . . . , the sum of P989,335.68 with *interest at the legal rate from November 29, 1968, the date of the filing of the complaint until full payment* . . . ." Save from the modification of the amount granted by the lower court, the Court of Appeals sustained the trial court's decision. When taken to this Court for review, the case, on 03 October 1986, was decided, thus:

> WHEREFORE, the decision appealed from is hereby MODIFIED and considering the special and environmental circumstances of this case, we deem it reasonable to render a decision imposing, as We do hereby impose, upon the defendant and the third-party defendants (with the exception of Roman Ozaeta) a solidary (Art. 1723, Civil Code, *Supra*.
> p. 10) indemnity in favor of the Philippine Bar Association of FIVE MILLION (P5,000,000.00) Pesos to cover all damages (with the exception to attorney's fees) occasioned by the loss of the building (including interest charges and lost rentals) and an additional ONE HUNDRED THOUSAND (P100,000.00) Pesos as and for attorney's fees, the total sum being payable upon the finality of this decision. *Upon failure to pay on such finality, twelve (12%) per cent interest per annum shall be imposed upon aforementioned amounts from finality until paid*. Solidary costs against the defendant and third-party defendants (Except Roman Ozaeta). (Emphasis supplied)

A motion for reconsideration was filed by United Construction, contending that "the interest of twelve (12%) per cent *per annum* imposed on the total amount of the monetary award was in contravention of law." The Court [10] ruled out the applicability of the Reformina and Philippine Rabbit Bus Lines cases and, in its resolution of 15 April 1988, it explained:

> There should be no dispute that the imposition of 12% interest pursuant to Central Bank Circular No. 416 . . . is applicable only in the following: (1) loans; (2) forbearance of any money, goods or credit; and
> (3) rate allowed in judgments (judgments spoken of refer to judgments involving loans or forbearance of any money, goods or credits. (Philippine Rabbit Bus Lines Inc. v. Cruz, 143 SCRA 160-161 [1986]; Reformina v. Tomol, Jr., 139 SCRA 260 [1985]). *It is true that in the instant case, there is neither a loan or a forbearance, but then no interest is actually imposed provided the sums referred to in the judgment are paid upon the finality of the judgment. It is delay in the payment of such final judgment, that will cause the imposition of the interest.*
>
> It will be noted that in the cases already adverted to, the rate of interest is imposed on the total sum, from the filing of the complaint until paid; in other words, as *part of the judgment for damages*. Clearly, they are not applicable to the instant case. (Emphasis supplied.)

The subsequent case of *American Express International, Inc., vs. Intermediate Appellate Court* [11] was a petition for review on *certiorari* from the decision, dated 27 February 1985, of the then Intermediate Appellate Court reducing the amount of moral and exemplary damages awarded by the trial court, to P240,000.00 and P100,000.00, respectively, and its resolution, dated 29 April 1985, restoring the amount of damages awarded by the trial court, *i.e.*, P2,000,000.00 as moral damages and P400,000.00 as exemplary damages with *interest thereon at 12% per annum from notice of judgment,* plus

costs of suit. In a decision of 09 November 1988, this Court, while recognizing the right of the private respondent to recover damages, held the award, however, for moral damages by the trial court, later sustained by the IAC, to be inconceivably large. The Court [12] thus set aside the decision of the appellate court and rendered a new one, "ordering the petitioner to pay private respondent the sum of One Hundred Thousand (P100,000.00) Pesos as moral damages, with *six (6%) percent interest thereon computed from the finality of this decision until paid*. (Emphasis supplied)

Reformina came into fore again in the 21 February 1989 case of *Florendo v. Ruiz* [13] which arose from a breach of employment contract. For having been illegally dismissed, the petitioner was awarded by the trial court moral and exemplary damages without, however, providing any legal interest thereon. When the decision was appealed to the Court of Appeals, the latter held:

> WHEREFORE, except as modified hereinabove the decision of the CFI of Negros Oriental dated October 31, 1972 is affirmed in all respects, with the modification that defendants-appellants, except defendant-appellant Merton Munn, are ordered to pay, jointly and severally, the amounts stated in the dispositive portion of the decision, including the sum of P1,400.00 in concept of compensatory damages, with *interest at the legal rate from the date of the filing of the complaint until fully paid* (Emphasis supplied.)

The petition for review to this Court was denied. The records were thereupon transmitted to the trial court, and an entry of judgment was made. The writ of execution issued by the trial court directed that only compensatory damages should earn interest at 6% *per annum* from the date of the filing of the complaint. Ascribing grave abuse of discretion on the part of the trial judge, a petition for *certiorari* assailed the said order. This Court said:

> . . . , it is to be noted that the Court of Appeals ordered the payment of interest "at the legal rate" *from the time of the filing of the complaint*. . . Said circular [Central Bank Circular No. 416] does not apply to actions based on a breach of employment contract like the case at bar. (Emphasis supplied)

The Court reiterated that the 6% interest *per annum* on the damages should be computed from the time the complaint was filed until the amount is fully paid.

Quite recently, the Court had another occasion to rule on the matter. *National Power Corporation vs. Angas,* [14] decided on 08 May 1992, involved the expropriation of certain parcels of land. After conducting a hearing on the complaints for *eminent domain,* the trial court ordered the petitioner to pay the private respondents certain sums of money as just compensation for their lands so expropriated "*with legal interest thereon . . . until fully paid*." Again, in applying the 6% legal interest *per annum* under the Civil Code, the Court [15] declared:

> . . . , (T)he transaction involved is clearly not a loan or forbearance of money, goods or credits but expropriation of certain parcels of land for a public purpose, the payment of which is without stipulation regarding interest, and the interest adjudged by the trial court is in the nature of indemnity for damages. The legal interest required to be paid on the amount of just compensation for the properties expropriated is manifestly in the form of indemnity for damages for the delay in the payment thereof. Therefore, since the kind of interest involved in the joint judgment of the lower court sought to be enforced in this case is interest by way of damages, and not by way of earnings from loans, etc. Art. 2209 of the Civil Code shall apply.

Concededly, there have been seeming variances in the above holdings. The cases can perhaps be classified into two groups according to the similarity of the issues involved and the corresponding rulings rendered by the court. The "first group" would consist of the cases of *Reformina v. Tomol* (1985), *Philippine Rabbit Bus Lines v. Cruz* (1986), *Florendo v. Ruiz* (1989) and *National Power Corporation v. Angas* (1992). In the "second group" would be *Malayan Insurance Company v. Manila Port Service* (1969), *Nakpil and Sons v. Court of Appeals* (1988), and *American Express International v. Intermediate Appellate Court* (1988).

In the "first group", the basic issue focuses on the application of either the 6% (under the Civil Code) or 12% (under the Central Bank Circular) interest *per annum*. It is easily discernible in these cases that there has been a consistent holding that the Central Bank Circular imposing the 12% interest *per annum* applies only to loans or forbearance [16] of money, goods or credits, as well as to judgments involving such loan or forbearance of money, goods or credits, and that the 6% interest under the Civil Code governs when the transaction involves the payment of indemnities in the concept of damage arising from the breach or a delay in the performance of obligations in general. Observe, too, that in these cases, a common time frame in the computation of the 6% interest *per annum* has been applied, *i.e.*, from the time the complaint is filed until the adjudged amount is fully paid.

The "second group", did not alter the pronounced rule on the application of the 6% or 12% interest *per annum*, [17] depending on whether or not the amount involved is a loan or forbearance, on the one hand, or one of indemnity for damage, on the other hand. Unlike, however, the "first group" which remained consistent in holding that the running of the legal

interest should be from the time of the filing of the complaint until fully paid, the "second group" varied on the commencement of the running of the legal interest.

Malayan held that the amount awarded should *bear legal interest from the date of the decision of the court a quo,* explaining that "if the suit were for damages, 'unliquidated and not known until definitely ascertained, assessed and determined by the courts after proof,' then, interest 'should be from the date of the decision.'" *American Express International v. IAC,* introduced a different time frame for reckoning the 6% interest by ordering it to be "*computed from the finality of (the) decision until paid*." The Nakpil and Sons case ruled that 12% interest *per annum* should be imposed from the finality of the decision until the judgment amount is paid.

The ostensible discord is not difficult to explain. The factual circumstances may have called for different applications, guided by the rule that the courts are vested with discretion, depending on the equities of each case, on the award of interest. Nonetheless, it may not be unwise, by way of clarification and reconciliation, to suggest the following rules of thumb for future guidance.

I. When an obligation, regardless of its source, *i.e.*, law, contracts, quasi-contracts, delicts or quasi-delicts [18] is breached, the contravenor can be held liable for damages. [19] The provisions under Title XVIII on "Damages" of the Civil Code govern in determining the measure of recoverable damages. [20]

II. With regard particularly to an award of interest in the concept of actual and compensatory damages, the rate of interest, as well as the accrual thereof, is imposed, as follows:

1. When the obligation is breached, and it consists in the payment of a sum of money, *i.e.*, a loan or forbearance of money, the interest due should be that which may have been stipulated in writing. [21] Furthermore, the interest due shall itself earn legal interest from the time it is judicially demanded. [22] In the absence of stipulation, the rate of interest shall be 12% *per annum* to be computed from default, *i.e.*, from judicial or extrajudicial demand under and subject to the provisions of Article 1169 [23] of the Civil Code.

2. When an obligation, not constituting a loan or forbearance of money, is breached, an interest on the amount of damages awarded may be imposed at the *discretion of the court* [24] at the rate of 6% *per annum*. [25] No interest, however, shall be adjudged on unliquidated claims or damages except when or until the demand can be established with reasonable certainty. [26] Accordingly, where the demand is established with reasonable certainty, the interest shall begin to run from the time the claim is made judicially or extrajudicially (Art. 1169, Civil Code) but when such certainty cannot be so reasonably established at the time the demand is made, the interest shall begin to run only from the date the judgment of the court is made (at which time the quantification of damages may be deemed to have been reasonably ascertained). The actual base for the computation of legal interest shall, in any case, be on the amount finally adjudged.

3. When the judgment of the court awarding a sum of money becomes final and executory, the rate of legal interest, whether the case falls under paragraph 1 or paragraph 2, above, shall be 12% *per annum* from such finality until its satisfaction, this interim period being deemed to be by then an equivalent to a forbearance of credit.

WHEREFORE, the petition is partly GRANTED. The appealed decision is AFFIRMED with the MODIFICATION that the legal interest to be paid is SIX PERCENT (6%) on the amount due computed from the decision, dated 03 February 1988, of the court *a quo*. A TWELVE PERCENT (12%) interest, in lieu of SIX PERCENT (6%), shall be imposed on such amount upon finality of this decision until the payment thereof.

SO ORDERED.

Narvasa, C.J., Cruz, Feliciano, Padilla, Bidin, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Quiason, Puno and Kapunan, JJ., concur.

Mendoza, J., took no part.

#Footnotes

1 Art. 1734. Common carriers are responsible for the loss, destruction, or deterioration of the goods, unless the same is due to any of the following causes only:

(1) Flood, storm, earthquake, lightning, or other natural disaster or calamity;

(2) Act of the public enemy in war, whether international or civil;

(3) Act or omission of the shipper or owner of the goods;

(4) The character of the goods or defects in the packing or in the containers;

(5) Order or act of competent public authority.

2 28 SCRA 65.

3 Penned by Justice Conrado Sanchez, concurred in by Justices Jose B.L. Reyes, Arsenio Dizon, Querube Makalintal, Calixto Zaldivar, Enrique Fernando, Francisco Capistrano, Claudio Teehankee and Antonio Barredo, Chief Justice Roberto Concepcion and Justice Fred Ruiz Castro were on official leave.

4 The correct caption of the case is "Claro Rivera vs. Amadeo Matute, L-6998, 29 February 1956," 98 Phil. 516.

5 139 SCRA 260, 265.

6 Penned by Justice Serafin Cuevas, concurred in by Justices Hermogenes Concepcion, Jr., Vicente Abad Santos, Ameurfina Melencio-Herrera, Venicio Escolin, Lorenzo Relova, Hugo Gutierrez, Jr., Buenaventura de la Fuente, Nestor Alampay and Lino Patajo. Justice Ramon Aquino concurred in the result. Justice Efren Plana filed a concurring and dissenting opinion, concurred in by Justice Claudio Teehankee while Chief Justice Felix Makasiar concurred with the separate opinion of Justice Plana.

7 143 SCRA 158.

8 Penned by then Justice, now Chief Justice, Andres Narvasa, concurred in by Justices Pedro Yap, Ameurfina Melencio-Herrera, Isagani A. Cruz and Edgardo Paras.

9 160 SCRA 334.

10 Penned by Justice Edgardo Paras, with the concurrence of Justices Marcelo Fernan, Teodoro Padilla, Abdulwahid Bidin, and Irene Cortes. Justice Hugo Gutierrez, Jr., took no part because he was the *ponente* in the Court of Appeals.

11 167 SCRA 209.

12 Rendered *per curiam* with the concurrence of then Chief Justice Marcelo Fernan, Justices Andres Narvasa, Isagani A. Cruz, Emilio Gancayco, Teodoro Padilla, Abdulwahid Bidin, Abraham Sarmiento, Irene Cortes, Carolina Griño-Aquino, Leo Medialdea and Florenz Regalado. Justices Ameurfina Melencio-Herrera and Hugo Gutierrez, Jr., took no part because they did not participate in the deliberations. Justices Edgardo Paras and Florentino Feliciano also took no part.

13 170 SCRA 461.

14 208 SCRA 542.

15 Penned by Justice Edgardo Paras with the concurrence of Justices Ameurfina Melencio-Herrera, Teodoro Padilla, Florenz Regalado and Rodolfo Nocon.

16 Black's Law Dictionary (1990 ed., 644) citing the case of Hafer v. Spaeth, 22 Wash. 2d 378, 156 P.2d 408, 411 defines the word *forbearance*, within the context of usury law, as a contractual obligation of lender or creditor to refrain, during given period of time, from requiring borrower or debtor to repay loan or debt then due and payable.

17 In the case of Malayan Insurance, the application of the 6% and 12% interest *per annum* has no bearing considering that this case was decided upon before the issuance of Circular No. 416 by the Central Bank.

18 Art. 1157. Obligations arise from.

(1) Law;

(2) Contracts;

(3) Quasi-contracts;

(4) Acts or omissions punished by law; and

(5) Qausi-delicts."

19 Art. 1170. Those who in the performance of their obligations are guilty of fraud, negligence, or delay, and those who in any manner contravene the tenor thereof, are liable for damages.

20 Art. 2195. The provisions of this Title (on Damages) shall be respectively applicable to all obligations mentioned in article 1157.

21 Art. 1956. No interest shall be due unless it has been expressly stipulated in writing.

22 Art. 2212. Interest due shall earn legal interest from the time it is judicially demanded, although the obligation may be silent upon this point.

23 Art. 1169. Those obliged to deliver or to do something incur in delay from the time the obligee judicially or extrajudicially demands from them the fulfillment of their obligation.

> "However, the demand by the creditor shall not be necessary in order that delay may exist:
>
> (1) When the obligation or the law expressly so declare; or
>
> (2) When from the nature and the circumstances of the obligation it appears that the designation of the time when the thing is to be delivered or the service is to be rendered was a controlling motive for the establishment of the contract; or
>
> (3) When demand would be useless, as when the obligor has rendered it beyond his power to perform.
>
> "In reciprocal obligations, neither party incurs in delay if the other does not comply or is not ready to comply in a proper manner with what is incumbent upon him. From the moment one of the parties fulfills his obligation, delay by the other begins."

24 Art. 2210. Interest may, in the discretion of the court, be allowed upon damages awarded for breach of contract.

Art. 2211. In crimes and quasi-delicts, interest as a part of the damages may, in a proper case, be adjudicated in the discretion of the court.

25 Art. 2209. If the obligation consists in the payment of a sum of money, and the debtor incurs in delay, the indemnity for damages, there being no stipulation to the contrary, shall be the payment of the interest agreed upon, and in the absence of stipulation, the legal interest, which is six per cent *per annum*.

26 Art. 2213. Interest cannot be recovered upon unliquidated claims or damages, except when the demand can be established with reasonable certainty.